

Remarks

Reconsideration of this patent application is respectfully requested, particularly as herein amended.

Before turning to the merits of the Office Action of June 3, 2008, it is first noted, with appreciation, that the Office Action Summary Page appropriately clarifies applicants' claim of priority for this matter, including an acknowledgement of the priority claim and an acknowledgement that "All" of the "certified copies of the priority documents have been received in this National Stage application from the International Bureau".

It is further noted that the Office Action of June 3, 2008, encloses a copy of a "Form PTO-1449", presumably for the purpose of acknowledging consideration of all of the documents cited in the Information Disclosure Statement which was filed in this matter on October 12, 2005 (the Information Disclosure Statement with which the enclosed Form was filed). However, neither the returned Form nor the Office Action provides any acknowledgement of the consideration of the documents listed on the Form. It is, therefore, respectfully requested that the Examiner reissue the Form PTO-1449 submitted with applicants' Information Disclosure Statement filed on October 12, 2005, including an acknowledgement of the Examiner's consideration of the various documents listed on the Form.

Noting that the Office Action of June 3, 2008, newly

cites U.S. Patent No. 6,155,827 (Euvrard), which is commonly owned with the present U.S. Patent Application, applicants have enclosed an "Information Disclosure Statement" with this Reply which is being submitted to inform the Patent Office of information cited in connection with U.S. Patent No. 6,155,827. Because the enclosed Information Disclosure Statement is being filed before the mailing of a final action, a notice of allowance or an action that otherwise closes prosecution of the present U.S. Patent Application, consideration of the Information Disclosure Statement is respectfully requested pursuant to 37 C.F.R. §1.97(c). The fee set forth in 37 C.F.R. §1.17(p) is submitted herewith.

Turning next to the merits of the Office Action of June 3, 2008, receipt of the drawings submitted on February 15, 2008, is acknowledged. However, "[n]ew figures 4 and 5 are [objected to as] new matter... because there is no support for reference numeral 27 in the original disclosure". The specific nature of this rejection is not entirely understood, and in any event, is respectfully traversed for reasons which follow.

The Examiner is correct that the original disclosure did not contain a reference numeral 27. However, the original disclosure did contain a reference to "rotary drive means", for example, from line 33 of page 4 to line 14 of page 5, including "a shaft transmitting the rotational movement of the mechanical members upstream of the contra-angle into a rotational movement

of the instrument 1". Consequently, it is submitted that there is ample support for illustration of the drive shaft which is indicated by the reference numeral 27, and that the use of a newly presented reference numeral to indicate structure which was described in the original disclosure does not constitute the presentation of new matter.

In view of the foregoing, and because Figure 5 was not amended and corresponded to Fig. 5 as originally presented, it is submitted that the amended sheet of drawings submitted on February 15, 2008, did not contain any new matter. Reconsideration and withdrawal of the new matter rejection presented in the Office Action of June 3, 2008, is therefore respectfully requested.

The Office Action of June 3, 2008, also withdraws the indication of allowability noted in the earlier Office Action of November 15, 2007, and rejects pending claims 11, 12, 14 and 15 under 35 U.S.C. §103(a). Claims 11 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Chayes et al. (U.S. Patent No. 1,688,136). Claims 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over a proposed combination of Chayes et al. and Euvrard (U.S. Patent No. 6,155,827). Such rejections of applicants' claims are respectfully traversed, and reconsideration and withdrawal of the rejections of claims based on Chayes et al. and Euvrard is respectfully requested.

Claim 11 recites a "housing for receiving the handle of the instrument [which] includes an opening" and a "retractable

retainer [including] a retention member which projects across the opening of the housing". Paragraph 3 of the Office Action (4 to 6 lines from the bottom of Page 3) takes the position that Chayes et al. disclose a "housing for receiving the... instrument [which] includes an opening, and wherein [a] retractable retainer includes a retention member which projects across the opening". It is further stated that this is "clearly seen in fig. 1". However, no structures of Chayes et al. are correspondingly identified.

Chayes et al. disclose a bore 24 for receiving the tool (see, lines 76 to 84 of Page 1). However, the only "opening" in the bore 24 which is capable of receiving the tool is provided in the bearing member 23 which is associated with the lower end of the head 38. The upper end of the bore 24 is provided with a latching device 30 for locking the tool within the driving chuck 21 (see, lines 104 to 106 of Page 1). However, the latching device is arranged in a chamber which is enclosed (see, lines 25 to 29 of Page 2) by a cover plate 35 which cooperates with upper surfaces 33 of the head 38 (see, lines 7 to 11 of Page 2), and as a result, does not incorporate any opening which is capable of receiving the tool.

Consequently, the bottom of the bore 24 of Chayes et al. has an opening. However, none of the structures of the latching device 30 project across this opening. Upper portions of the head 38 of Chayes et al. incorporate a latching device 30.

However, there is no opening in the upper portions of the head 38 for receiving the tool within the bore 24. There is, therefore, no disclosure in Chayes et al. of a latching device which extends across an opening for receiving the tool within the bore of the head, in accordance with applicants' claim 11.

Claim 11 has been amended to clarify this structural distinction, which was disclosed at lines 16 to 27 of 6 page of applicants' specification, as originally filed. Claims 19 and 20 have also been newly presented to address this structural distinction. Claim 19 relates to structure disclosed in the original specification for this Patent Application at line 34 of page 7 and line 1 page 8, reciting an "opening of the housing [having] a mouth for receiving the handle and the first rotary drive of the instrument". Claim 20 relates to structure disclosed in the original specification for this Patent Application from line 16 of page 6 to line 17 of page 7, reciting an "opening of the housing... located along bottom portions of the housing, adjacent to the first rotary drive of the instrument".

Claim 11 has additionally been amended to clarify the recitation of the structural relationship between the ring and the spring of the retractable retainer and the body of the head, to better correspond to the recitation of such structures in claim 5 of the International Application on which the present U.S. Patent Application is based, as originally presented, and in

claim 3 of the "Amended Sheets" of the International Application, as later presented.

Paragraph 3 of the Office Action (2 to 3 lines from the bottom of Page 3) takes the position that Chayes et al. disclose "a ring-shaped structure 34 coupled with the retention member and movable relative to the body of the head, against a restoring spring 37". Noting lines 2 to 7 of Page 2, the latching device 30 disclosed by Chayes et al. includes a base 34 having jaw members 31 for engaging the tool "which is bent upwardly at the end thereof opposite the jaw members and then again bent horizontally parallel with itself". It is respectfully submitted that such structure cannot be characterized as "a ring-shaped structure". Moreover, the various components of the latching device 30 of Chayes et al. do not cooperate with the tool holding part 16 in the same manner as is recited in applicants' claim 11, further distinguishing the disclosure of Chayes et al.

Claim 12 has been amended, and currently recites "a shoulder adjacent to the first rotary drive, on a side of the handle nearest to the active part of the instrument, for engagement by the retention member of the retractable retainer", as is disclosed in the original specification for this Patent Application at lines 16 to 27 of page 6. Paragraph 3 of the Office Action (the last two lines of Page 3) takes the position that Chayes et al. disclose "a shoulder portion on the instrument which is between shaft 25 and gear 20". However, the identified

structures do not interact with the latching device 30 of Chayes et al., clearly distinguishing the subject matter currently recited in dependent claim 12.

Claims 14 and 15 recite structures including a "sloped surface" and a "horseshoe-shaped profile" associated with the retention member of the retractable retainer, for facilitating interaction between the retention member and the handle of the instrument when the instrument is inserted into the housing for receiving the handle. Paragraph 4 of the Office Action acknowledges that Chayes et al. do not disclose such structures, and proposes a combination of Euvrard with Chayes et al. for purposes of rejecting claims directed to such subject matter.

While it is correct that the instrument disclosed by Euvrard (noting Fig. 1) has sloped surfaces, although it is not clear which of the sloped surfaces is being referred to in the Office Action, none of the sloped surfaces disclosed by Euvrard interact with the mechanism disclosed for engaging the groove 6 of the shank 1. Consequently, the disclosure of Euvrard would not have suggested the use of sloped surfaces for purposes of engaging an instrument to the person of ordinary skill in the art at the time the present invention was made, as is suggested in the Office Action.

Similarly, while it is correct that the head of the contra-angle disclosed by Euvrard (noting Fig. 2) has a member 11 for interacting with the groove 6 of the shank 1, there is

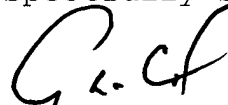
no disclosure in Euvrard which would indicate that the member 11 incorporates a horseshoe-shaped profile, and there is no disclosure of any interaction between the member 11 and the surface 9 of Euvrard. Consequently, the disclosure of Euvrard would not have suggested the use of a horseshoe-shaped profile for purposes of engaging the shoulder of an instrument to the person of ordinary skill in the art at the time the present invention was made, as is suggested in the Office Action.

The foregoing structural distinctions are important for reducing the size of the various structures associated with the contra-angle, to in turn reduce obstruction of the practitioner's view of the area being worked upon. To illustrate the importance of this improvement, a brochure entitled "R-Endo®" is enclosed with this Reply. In particular, reference is invited to two illustrations which are shown toward the top of Page 14 of the Brochure. The view on the left side shows visibility in the working area when using a conventional contra-angle, and the view on the right side shows visibility in the working area when using a contra-angle produced in accordance with applicants' claims. The improvement in the practitioner's visibility of the work site is self-evident, and significant. Such visibility could not have been achieved with the structures disclosed by Chayes et al. and/or Euvrard, even if combined as is proposed in the Office Action of June 3, 2008.

It is, therefore, submitted that the pending claims of

this Patent Application are not appropriately rejected under 35 U.S.C. §103(a) as being unpatentable over Chayes et al., or a proposed combination of Chayes et al. and Euvrard, and that this Patent Application remains in condition for allowance. Corresponding action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. Cohen", is written over the typed name.

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